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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/648,883	08/25/2000	Karla E. Williams	460.1815USXV	6914

7590

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EXAMINER

MULLIS, JEFFREY C

ART UNIT

PAPER NUMBER

1711

DATE MAILED: 10/28/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/648,883

Applicant(s)

WILLIAMS ET AL.

Examiner

Jeffrey C. Mullis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 July 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 45-66 is/are pending in the application.
- 4a) Of the above claim(s) 45-48 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 49 and 55-66 is/are rejected.
- 7) ☐ Claim(s) 50-54 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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Applicants' election of Group II, claims 49-66 with traverse is acknowledged. Applicants' traversal is on the grounds that the search and examination of this application can be made without serious burden on the Office. This argument is not found persuasive because as set out in the restriction requirement, the search for the different groups is not co-extensive.

The amendment filed 11-21-00 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: The material inserted at page 19 line 21 after "0.46 lbs.-inch" as well as the material at page 20 line 17. This material was not present in the specification as filed and is therefore new matter.

Applicant is required to cancel the new matter in the response to this Office action.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 49 is rejected under 35 U.S.C. § 102(b) as being anticipated by Takeuchi et al. (USP 5,264,488).

Note Table 2 for compositions containing combinations of either polyethylene or polypropylene as well as two different styrene/butadiene/styrene block copolymers. Note that the two different block copolymers are further defined at column 10 lines 45-51 and are not disclosed to contain the same styrene content. Note that the combination of the two block copolymers are disclosed in Table 2 for Examples 1, 2 and 4 as well as Examples 7, 11 and 13 of Table 3.

Claims 49, 55, 56, 60, 62 and 65 are rejected under 35 U.S.C. § 102(b) as being anticipated by Himes et al. (USP 4,880,878).

Note Table 6 in column 10 and specifically Run J for a composition containing a combination of styrene-butadiene-styrene block copolymers which are disclosed in the footnote to the Table

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to have 28% and 13% polystyrene blocks respectively. Note also that Run J contains LDPE. Note also column 7 lines 36-54 which discloses a composition containing 33 parts of HDPE, 67 parts of Kraton G1657 and another triblock copolymer having a styrene content of 11.9%.

Claims 49 and 55-66 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Himes et al. (USP 4,880,878).

Himes et al. disclose applicants' standard additives such as slip agents and specific antioxidants as well as plasticizers and processing aids. Note column 6 line 65 - column 7 line 35.

While it is assumed that the oil in the Examples of patentees inherently act as a plasticizer given that low molecular weight materials which are compatible typically plasticize macromolecular materials, arguably this may not be so. With regard to applicants' flow modifier, the Examiner gives Official Notice that applicants' ethylene methyl acrylate copolymer was widely known to be used as a flow modifier at the time of the invention.

It would have been obvious to a practitioner having ordinary skill in the art at the time of the invention to add the standard additives disclosed by Himes' specification to the composition of Himes' Examples as well as a flow specific modifier, ethylene methyl acrylate in order to extend the advantages known to accrue by use of such materials such as increased flexibility or

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stability against oxidation or greater ease of processability or better mold release etc. absent any showing of surprising or unexpected results.

Claims 49 and 55-66 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Takeuchi et al. (USP 5,264,488) in view of Himes, both cited above.

Takeuchi et al. does not disclose applicants' standard additives such as antioxidants etc. as set out in applicants' dependent claims.

It would have been obvious to a practitioner having ordinary skill in the art at the time of the invention to add the standard additives of the secondary reference to that of Takeuchi motivated to extend the advantages known to be accruable by use of such additives such as increased oxidation resistance, greater flexibility, etc. as taught by the secondary reference absent any showing of surprising or unexpected results.

Claims 50-54 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication should be directed to Jeffrey Mullis at telephone number (703) 308-2820.

J. Mullis:cdc
October 25, 2002

Jeffrey Mullis
Primary Examiner
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